



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/6/2004, by Terry R. Parke

SYNOPSIS AS INTRODUCED:

720 ILCS 5/46-1
720 ILCS 5/46-1.1
820 ILCS 305/4e new

Amends the Criminal Code of 1961. Provides that insurance fraud or fraud on a governmental entity is a Class A misdemeanor if the value of the property obtained or attempted to be obtained is \$100 (rather than \$300) or less and a Class 3 felony if the value of the property obtained or attempted to be obtained is more than \$100 (rather than \$300) but not more than \$10,000. Amends the Workers' Compensation Act. Provides that a workers' compensation insurer or self-insured employer may provide a notice to an injured worker, on or with a check for temporary disability benefits, warning the worker that acceptance of employment with a different employer that requires the performance of activities the employee has stated that he or she cannot perform because of the injury for which he or she is receiving temporary disability benefits could constitute fraud and could result in specified criminal penalties and liability for damages, and that others found to have assisted the employee in the perpetration of fraud could also be subject to criminal prosecution and civil liability. Effective immediately.

LRB093 16941 WGH 47028 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning fraud.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Sections 46-1 and 46-1.1 as follows:

6 (720 ILCS 5/46-1)

7 Sec. 46-1. Insurance fraud.

8 (a) A person commits the offense of insurance fraud when he
9 or she knowingly obtains, attempts to obtain, or causes to be
10 obtained, by deception, control over the property of an
11 insurance company or self-insured entity by the making of a
12 false claim or by causing a false claim to be made on any
13 policy of insurance issued by an insurance company or by the
14 making of a false claim to a self-insured entity, intending to
15 deprive an insurance company or self-insured entity
16 permanently of the use and benefit of that property.

17 (b) Sentence.

18 (1) A violation of this Section in which the value of
19 the property obtained or attempted to be obtained is \$100
20 ~~\$300~~ or less is a Class A misdemeanor.

21 (2) A violation of the Section in which the value of
22 the property obtained or attempted to be obtained is more
23 than \$100 ~~\$300~~ but not more than \$10,000 is a Class 3
24 felony.

25 (3) A violation of this Section in which the value of
26 the property obtained or attempted to be obtained is more
27 than \$10,000 but not more than \$100,000 is a Class 2
28 felony.

29 (4) A violation of this Section in which the value of
30 the property obtained or attempted to be obtained is more
31 than \$100,000 is a Class 1 felony.

32 (c) For the purposes of this Article, where the exact value

1 of property obtained or attempted to be obtained is either not
2 alleged by the accused or not specifically set by the terms of
3 a policy of insurance, the value of the property shall be the
4 fair market replacement value of the property claimed to be
5 lost, the reasonable costs of reimbursing a vendor or other
6 claimant for services to be rendered, or both.

7 (d) Definitions. For the purposes of this Article:

8 (1) "Insurance company" means "company" as defined
9 under Section 2 of the Illinois Insurance Code.

10 (2) "Self-insured entity" means any person, business,
11 partnership, corporation, or organization that sets aside
12 funds to meet his, her, or its losses or to absorb
13 fluctuations in the amount of loss, the losses being
14 charged against the funds set aside or accumulated.

15 (3) "Obtain", "obtains control", "deception",
16 "property" and "permanent deprivation" have the meanings
17 ascribed to those terms in Article 15 of this Code.

18 (4) "Governmental entity" means each officer, board,
19 commission, and agency created by the constitution,
20 whether in the executive, legislative, or judicial branch
21 of State government; each officer, department, board,
22 commission, agency, institution, authority, university,
23 and body politic and corporate of the State; each
24 administrative unit or corporate outgrowth of State
25 government that is created by or pursuant to statute,
26 including units of local government and their officers,
27 school districts, and boards of election commissioners;
28 and each administrative unit or corporate outgrowth of the
29 above and as may be created by executive order of the
30 Governor.

31 (5) "False claim" means any statement made to any
32 insurer, purported insurer, servicing corporation,
33 insurance broker, or insurance agent, or any agent or
34 employee of the entities, and made as part of, or in
35 support of, a claim for payment or other benefit under a
36 policy of insurance, or as part of, or in support of, an

1 application for the issuance of, or the rating of, any
2 insurance policy, when the statement contains any false,
3 incomplete, or misleading information concerning any fact
4 or thing material to the claim, or conceals the occurrence
5 of an event that is material to any person's initial or
6 continued right or entitlement to any insurance benefit or
7 payment, or the amount of any benefit or payment to which
8 the person is entitled.

9 (6) "Statement" means any assertion, oral, written, or
10 otherwise, and includes, but is not limited to, any notice,
11 letter, or memorandum; proof of loss; bill of lading;
12 receipt for payment; invoice, account, or other financial
13 statement; estimate of property damage; bill for services;
14 diagnosis or prognosis; prescription; hospital, medical or
15 dental chart or other record, x-ray, photograph,
16 videotape, or movie film; test result; other evidence of
17 loss, injury, or expense; computer-generated document; and
18 data in any form.

19 (Source: P.A. 90-333, eff. 1-1-98; 91-232, eff. 1-1-00.)

20 (720 ILCS 5/46-1.1)

21 Sec. 46-1.1. Fraud on a governmental entity.

22 (a) A person commits the offense of fraud on a governmental
23 entity when he or she knowingly obtains, attempts to obtain, or
24 causes to be obtained, by deception, control over the property
25 of any governmental entity by the making of a false claim of
26 bodily injury or of damage to or loss or theft of property or
27 by causing a false claim of bodily injury or of damage to or
28 loss or theft of property to be made against the governmental
29 entity, intending to deprive the governmental entity
30 permanently of the use and benefit of that property.

31 (b) Sentence.

32 (1) A violation of this Section in which the value of
33 the property obtained or attempted to be obtained is \$100
34 ~~\$300~~ or less is a Class A misdemeanor.

35 (2) A violation of this Section in which the value of

1 the property obtained or attempted to be obtained is more
2 than \$100 ~~\$300~~ but not more than \$10,000 is a Class 3
3 felony.

4 (3) A violation of this Section in which the value of
5 the property obtained or attempted to be obtained is more
6 than \$10,000 but not more than \$100,000 is a Class 2
7 felony.

8 (4) A violation of this Section in which the value of
9 the property obtained or attempted to be obtained is more
10 than \$100,000 is a Class 1 felony.

11 (Source: P.A. 90-333, eff. 1-1-98; 91-232, eff. 1-1-00.)

12 Section 10. The Workers' Compensation Act is amended by
13 adding Section 4e as follows:

14 (820 ILCS 305/4e new)

15 Sec. 4e. Workers' Compensation Fraud Warning Notice.

16 (a) Legislative Declarations. The General Assembly finds
17 and declares that:

18 (1) workers' compensation fraud is the largest source
19 of fraud within the property/casualty industry, accounting
20 for more than one-third of all property/casualty insurance
21 fraud; and

22 (2) the cost of workers' compensation insurance fraud
23 is passed on to employers in the form of higher premium
24 costs; and

25 (3) insurers and self-insured employers should have
26 the right to notify workers' compensation claimants that
27 certain actions following the acceptance of benefits may
28 constitute fraud.

29 (b) Warning Notice. An insurer or self-insured employer may
30 provide the following notice to an injured worker on or with a
31 check for temporary disability benefits:

32 Warning: Acceptance of employment with a different
33 employer that requires the performance of activities you
34 have stated that you cannot perform because of the injury

1 for which you are receiving temporary disability benefits
2 could constitute fraud and could result in criminal
3 prosecution and liability for damages. If convicted, you
4 could be subject to liability, lose your rights to workers'
5 compensation benefits, and face imprisonment up to one year
6 and a fine of up to \$2,500 or double the amount of the
7 fraud, whichever is greater. Others found to have assisted
8 you in the perpetration of fraud could also be subject to
9 criminal prosecution and civil liability.

10 Section 97. Severability. The provisions of this Act are
11 severable under Section 1.31 of the Statute on Statutes.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.